

AMENDED IN ASSEMBLY APRIL 7, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1850

Introduced by Assembly Member Eduardo Garcia

February 10, 2016

An act to amend Sections ~~32400 and 32401~~ 13000, 32400, 32401, 52613, 52651, 68062, 68130.5, and 69505 of the Education Code, relating to educational services.

LEGISLATIVE COUNSEL’S DIGEST

AB 1850, as amended, Eduardo Garcia. Educational services: ~~federal Immigration Reform and Control Act of 1986~~; *permanent residents*; *foreign nationals*.

(1) *The existing California Civil Liberties Public Education Act has been enacted for the stated purpose of sponsoring public educational activities and development of educational materials to ensure that the events surrounding the exclusion, forced removal, and internment of persons of Japanese ancestry will be remembered and so that the causes and circumstances of this and similar events may be illuminated and understood.*

Existing law requires, to the extent that federal financial analysis methodology incorporates this exemption, income received as reparation payments paid pursuant to federal law for the purpose of redressing the injustice done to persons of Japanese ancestry who were interned during World War II not be considered in determining an applicants financial need for purposes of student financial aid programs.

This bill would delete the term “resident aliens” from these provisions and replace it with the term “permanent residents.”

~~Existing~~

(2) *Existing* law expresses findings of the Legislature with respect to the impact of the federal Immigration Reform and Control Act of 1986 on illegal aliens. Existing law also states the intent of the Legislature to establish a state test that may be used by eligible aliens to attest to their understanding of English and understanding of the history and government of the United States to meet the requirements of that act. Existing law requires the Superintendent of Public Instruction, in consultation with the Chancellor of the California Community Colleges, to develop the state test referenced above.

This bill would delete the word “illegal” from the legislative findings relating to these aliens.

~~The~~

(3) *This* bill would also replace the word “alien” with the term “foreign national” ~~in these provisions~~; *various provisions relating to educational services provided to immigrants, relating to adult education, and relating to the determination of residence for students of specified public postsecondary educational institutions*, but this replacement would be operative only if the Superintendent certifies, in writing, to the Secretary of State of California on or before January 20, 2017, that this terminology has been changed in federal law as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13000 of the Education Code is amended
2 to read:
3 13000. (a) This part shall be known and may be cited as the
4 California Civil Liberties Public Education Act. The purpose of
5 the California Civil Liberties Public Education Act is to sponsor
6 public educational activities and development of educational
7 materials to ensure that the events surrounding the exclusion, forced
8 removal, and internment of ~~civilians~~ *citizens* and permanent
9 ~~resident aliens~~ *residents* of Japanese ancestry will be remembered,
10 and so that the causes and ~~circumstance~~ *circumstances* of this and
11 similar events may be illuminated and understood.
12 (b) The Legislature finds and declares that the federal
13 Commission on Wartime Relocation and Internment of Civilians
14 (CWRIC) was established by Congress in 1980 to “review the
15 facts and circumstances surrounding Executive Order 9066, issued

1 in February 19, 1942, and the impact of such Executive Order on
2 American citizens and permanent residents... and to recommend
3 appropriate remedies.” The CWRIC issued a report of its findings
4 in 1983 with the reports “Personal Justice Denied” and “Personal
5 Justice Denied-Part II, Recommendations.” The reports were based
6 on information gathered “through 20 days of hearings in cities
7 across the country, particularly the West Coast, hearing testimony
8 from more than 750 witnesses: evacuees, former government
9 officials, public figures, interested citizens, and historians and
10 other professionals who have studied the subjects of Commission
11 inquiry.”

12 (c) The lessons to be learned from the internment of
13 Japanese-Americans during World War II are embodied in
14 “Personal Justice Denied-Part II, Recommendations.” The CWRIC
15 concluded as follows: “In sum, Executive Order 9066 was not
16 justified by military necessity, and the decisions that followed
17 from it-exclusion, detention, the ending of detention and the ending
18 of exclusion-were not founded upon military considerations. The
19 broad historical causes that shaped these decisions were race
20 prejudice, war hysteria, and a failure of political leadership.
21 Widespread ignorance about Americans of Japanese descent
22 contributed to a policy conceived in haste and executed in an
23 atmosphere of fear and anger at Japan. A grave personal injustice
24 was done to the American citizens and resident aliens of Japanese
25 ancestry who, without individual review or any probative evidence
26 against them were excluded, removed and detained by the United
27 States during World War II.”

28 (d) The Legislature further finds and declares that President
29 Ronald Reagan signed into law the federal Civil Liberties Act of
30 1988 and declared during the signing ceremony that “This is a
31 great day for America.” In that act the Congress declared as
32 follows:

33 “The Congress recognizes that, as described in the Commission
34 on Wartime Relocation and Internment of Civilians, a grave
35 injustice was done to both citizens and permanent residents of
36 Japanese ancestry by the evacuation, relocation, and internment
37 of civilians during World War II. As the Commission documents,
38 these actions were carried out without adequate security reasons
39 and without any acts of espionage or sabotage documented by the
40 Commission, and were motivated largely by racial prejudice,

1 wartime hysteria, and a failure of political leadership. The excluded
2 individuals of Japanese ancestry suffered enormous damages, both
3 material and intangible, and there were incalculable losses in
4 education and job training, all of which resulted in significant
5 human suffering for which appropriate compensation has not been
6 made. For these fundamental violations of the basic civil liberties
7 and constitutional rights of these individuals of Japanese ancestry,
8 the Congress apologizes on behalf of the Nation.”

9 ~~SECTION 1.~~

10 *SEC. 2.* Section 32400 of the Education Code is amended to
11 read:

12 32400. (a) The Legislature finds that as many as one million
13 seven hundred thousand aliens could be granted amnesty and would
14 seek permanent residency in California under the federal
15 Immigration Reform and Control Act of 1986 (Public Law 99-603).
16 Under the act, eligible aliens would be required to demonstrate an
17 understanding of ordinary English and a knowledge and
18 understanding of the history and government of the United States.

19 (b) Further, it is the intent of the Legislature to establish a state
20 test for use by eligible aliens that would attest to their
21 understanding of English and understanding of the history and
22 government of the United States to meet the requirements of
23 Section 312 of the federal Immigration and Nationality Act (8
24 U.S.C. Sec. 1423) and the federal Immigration Reform and Control
25 Act of 1986 (Public Law 99-603).

26 ~~SEC. 2.~~

27 *SEC. 3.* Section 32400 of the Education Code is amended to
28 read:

29 32400. (a) The Legislature finds that as many as one million
30 seven hundred thousand undocumented foreign nationals could be
31 granted amnesty and would seek permanent residency in California
32 under the federal Immigration Reform and Control Act of 1986
33 (Public Law 99-603). Under the act, eligible aliens would be
34 required to demonstrate an understanding of ordinary English and
35 a knowledge and understanding of the history and government of
36 the United States.

37 (b) Further, it is the intent of the Legislature to establish a state
38 test for use by eligible foreign nationals that would attest to their
39 understanding of English and understanding of the history and
40 government of the United States to meet the requirements of

1 Section 312 of the federal Immigration and Nationality Act (8
2 U.S.C. Sec. 1423) and the federal Immigration Reform and Control
3 Act of 1986 (Public Law 99-603).

4 ~~SEC. 3.~~

5 *SEC. 4.* Section 32401 of the Education Code is amended to
6 read:

7 32401. (a) The Superintendent, in consultation with the
8 Chancellor of the California Community Colleges, shall develop
9 a test or adopt an existing test, subject to the approval of the United
10 States Attorney General pursuant to the federal Immigration
11 Reform and Control Act of 1986 (Public Law 99-603), to measure
12 whether an eligible foreign national has a minimal understanding
13 of ordinary English and a knowledge and understanding of the
14 history and government of the United States as required under
15 Section 312 of the federal Immigration and Nationality Act (8
16 U.S.C. Sec. 1423).

17 (b) The Governor, the Superintendent, the Chancellor of the
18 California Community Colleges, the President pro Tempore of the
19 Senate, and the Speaker of the Assembly shall petition the Director
20 of the United States Immigration and Naturalization Service and
21 the United States Attorney General for approval to use the test
22 referred to in subdivision (a) as one means by which an eligible
23 foreign national may satisfy the requirements under the federal
24 Immigration Reform and Control Act of 1986 (Public Law 99-603).

25 (c) The Superintendent shall distribute the test referred to in
26 subdivision (a) to school districts, county offices of education, and
27 community colleges, upon their request for purposes of
28 administration, to eligible foreign nationals granted legal status
29 pursuant to Section 245A of the federal Immigration and
30 Nationality Act, as amended by the Federal Immigration Reform
31 and Control Act of 1986 (Public Law 99-603). Any school district,
32 county office of education, or any other eligible agency that
33 receives federal legalization impact-assistance funds to provide
34 educational services may administer the test for purposes of
35 determining the need of an eligible foreign national applying for
36 legal status for appropriate educational services, and of allowing
37 an eligible foreign national to demonstrate an understanding of
38 ordinary English and a knowledge and understanding of the history
39 and government of the United States. Test results shall be
40 confidential, and shall not be released without the written consent

1 of the eligible foreign national for any purpose that is not directly
2 related to the provision of educational services. Upon request by
3 an eligible foreign national applying for legal status, test results
4 may be transmitted to the United States Immigration and
5 Naturalization Service. School districts, county offices of education
6 community colleges, and any other eligible agencies that receive
7 federal funds for this purpose shall administer the test using
8 appropriate test monitor and control procedures and provide for
9 necessary test security measures.

10 *SEC. 5. Section 52613 of the Education Code is amended to*
11 *read:*

12 52613. (a) Notwithstanding any section to the contrary, each
13 governing board of a school district maintaining classes for adults
14 that issues a Certificate of Eligibility for Nonimmigrant (F-1)
15 Student Status - For Academic and Language Students, Form
16 I-20AB, or completes Form I-20AB for a nonimmigrant-~~alien~~,
17 *foreign national*, as defined in subparagraph (F)(i) of paragraph
18 (15) of subsection (a) of Section 1101 of Title 8 of the United
19 States Code, for the purposes of enrolling the nonimmigrant-~~alien~~
20 *foreign national* in a class in English and citizenship for foreigners
21 or a class in an elementary subject, shall charge the nonimmigrant
22 ~~alien~~ *foreign national* a fee to cover the full costs of instruction,
23 but in no case shall the fee exceed the actual cost of the instruction.
24 The fee shall be adopted at a regular meeting of the governing
25 board of each of these school districts maintaining classes for
26 adults at least 90 days ~~prior to~~ *before* the commencement of the
27 classes for which the fee is charged.

28 (b) No *school* district maintaining classes for adults shall include
29 the attendance of F-1 visa students enrolled in a class in English
30 and citizenship for foreigners or in a class in elementary subjects
31 for apportionment purposes.

32 *SEC. 6. Section 52651 of the Education Code is amended to*
33 *read:*

34 52651. For the purposes of this chapter, unless the context
35 otherwise requires, the following terms shall have the following
36 meanings:

37 (a) “Board of Governors” means the Board of Governors of the
38 California Community Colleges.

39 (b) “Chancellor” means the Chancellor of the California
40 Community Colleges.

1 (c) “Community-based organizations” means public nonprofit
2 benefit corporations of demonstrated effectiveness approved by
3 the ~~superintendent~~ *Superintendent* to provide educational services
4 to eligible legalized persons.

5 (d) “Department” means the State Department of Education.

6 (e) “Educational outreach activities” means:

7 (1) Information transmitted to temporary resident ~~aliens~~ *foreign*
8 *nationals* regarding the requirements of the *federal* Immigration
9 and Nationality Act of 1986 (8 U.S.C. Secs. 1160, 1161, and
10 1255a), as those requirements existed on the effective date of this
11 chapter, relating to adjustment of resident status, sources of
12 assistance to those ~~aliens~~ *foreign nationals* obtaining adjustment
13 of resident status, including educational, informational, and referral
14 services, and the rights and responsibilities of those ~~aliens~~ *and*
15 *aliens foreign nationals and foreign nationals* lawfully admitted
16 for permanent residence, the identification of health, employment,
17 and social services, and the importance of identifying oneself as
18 a temporary resident ~~alien~~ *foreign national* to service providers.
19 It does not include client counseling or any other service that would
20 assume responsibility of the ~~alien’s~~ *foreign national’s* application
21 for the adjustment of resident status.

22 (2) Information provided to newly legalized persons and other
23 immigrants regarding educational opportunities available to them.

24 (f) “Immigrant” means a person who is a citizen of a country
25 other than the United States and is eligible for education services
26 in California or a naturalized United States citizen who is now
27 residing in California.

28 (g) “Newly legalized person” means ~~an alien~~ *a foreign national*
29 who has been granted lawful temporary resident status under
30 Sections 1160, 1161, and 1255a of Title 8 of the United States
31 Code, as those sections ~~exist~~ *existed* on the effective date of this
32 chapter. In addition, it means a person who has, after being granted
33 lawful temporary resident status, obtained permanent resident or
34 citizenship status.

35 (h) “Services provider” means any community-based
36 organization, school district maintaining adult education programs,
37 or community college that has been approved by the ~~superintendent~~
38 *Superintendent* in the 1991–92 fiscal year as eligible to provide
39 educational services to newly legalized persons pursuant to
40 subdivision (k) of Section 23.50 of the Budget Act of 1991.

(i) “SLIAG” means the State Legalization Impact-Assistance Grants as set forth in Section 204 of the *federal* Immigration Reform and Control Act of 1986, (Sec. 204, P.L. 99-603), as it exists on the effective date of this chapter.

(j) “Superintendent” means the Superintendent of Public Instruction.

SEC. 7. Section 68062 of the Education Code is amended to read:

68062. In determining the place of residence the following rules are to be observed:

(a) There can only be one residence.

(b) A residence is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.

(c) A residence cannot be lost until another is gained.

(d) The residence can be changed only by the union of act and intent.

(e) A man or woman may establish his or her residence. A woman’s residence shall not be derivative from that of her husband.

(f) The residence of the parent with whom an unmarried minor child maintains his or her place of abode is the residence of the unmarried minor child. When the minor lives with neither parent his or her residence is that of the parent with whom he or she maintained his or her last place of abode, provided the minor may establish his or her residence when both parents are deceased and a legal guardian has not been appointed.

(g) The residence of an unmarried minor who has a parent living cannot be changed by his or her own act, by the appointment of a legal guardian, or by relinquishment of a parent’s right of control.

(h) ~~An alien,~~ *A foreign national*, including an unmarried minor ~~alien,~~ *foreign national*, may establish his or her residence, unless precluded by the *federal* Immigration and Nationality Act (8 U.S.C. 1401, Sec. 1101 et seq.) from establishing domicile in the United States.

(i) The residence of an unmarried minor ~~alien~~ *foreign national* shall be derived from his or her parents pursuant to the provisions of subdivisions (f) and (g).

SEC. 8. Section 68130.5 of the Education Code is amended to read:

68130.5. Notwithstanding any other law:

1 (a) A student, other than a nonimmigrant-~~alien~~ *foreign national*
2 within the meaning of paragraph (15) of subsection (a) of Section
3 1101 of Title 8 of the United States Code, who meets all of the
4 following requirements shall be exempt from paying nonresident
5 tuition at the California State University and the California
6 Community Colleges:

7 (1) Satisfaction of either of the following:

8 (A) High school attendance in California for three or more years.

9 (B) Attainment of credits earned in California from a California
10 high school equivalent to three or more years of full-time high
11 school coursework and a total of three or more years of attendance
12 in California elementary schools, California secondary schools,
13 or a combination of those schools.

14 (2) Graduation from a California high school or attainment of
15 the equivalent thereof.

16 (3) Registration as an entering student at, or current enrollment
17 at, an accredited institution of higher education in California not
18 earlier than the fall semester or quarter of the 2001–02 academic
19 year.

20 (4) In the case of a person without lawful immigration status,
21 the filing of an affidavit with the institution of higher education
22 stating that the student has filed an application to legalize his or
23 her immigration status, or will file an application as soon as he or
24 she is eligible to do so.

25 (b) A student exempt from nonresident tuition under this section
26 may be reported by a community college district as a full-time
27 equivalent student for apportionment purposes.

28 (c) The Board of Governors of the California Community
29 Colleges and the Trustees of the California State University shall
30 prescribe rules and regulations for the implementation of this
31 section.

32 (d) Student information obtained in the implementation of this
33 section is confidential.

34 *SEC. 9. Section 69505 of the Education Code is amended to*
35 *read:*

36 69505. (a) To the extent that federal financial analysis
37 methodology incorporates this exemption, income received as
38 reparation payments paid pursuant to federal law on or after
39 October 1, 1990, for the purpose of redressing the injustice done
40 to United States citizens and ~~resident aliens~~ *permanent residents*

1 of Japanese ancestry who were interned during World War II shall
2 not be considered in determining an applicant's financial need.

3 (b) To the extent that federal financial analysis methodology
4 incorporates this exemption, income received as reparation
5 payments paid by the Canadian government for the purpose of
6 redressing the injustice done to persons of Japanese ancestry who
7 were interned in Canada during World War II shall not be
8 considered in determining an applicant's financial need.

9 ~~SEC. 4.~~

10 ~~SEC. 10.~~ (a) ~~Sections 2 and 3 to 8, inclusive,~~ of this act shall
11 not become operative unless, on or before January 20, 2017, the
12 Superintendent of Public Instruction certifies, in writing, to the
13 Secretary of State of California that House Resolution 3785 of the
14 114th United States Congress, or an equivalent measure, has been
15 enacted and the Correcting Hurtful and Alienating Names in
16 Government Expression (CHANGE) Act has become law,
17 accomplishing both of the following with respect to an executive
18 agency of the federal government:

19 (1) The replacement of the term "alien" with the term "foreign
20 national" when used to refer to an individual who is not a citizen
21 or national of the United States.

22 (2) The replacement of the term "illegal alien" with the term
23 "undocumented foreign national" when used to refer to an
24 individual who is unlawfully present in the United States or who
25 lacks a lawful immigration status in the United States.

26 (b) In the event that the Superintendent of Public Instruction
27 makes the certification referenced in subdivision (a), ~~Section 4 2~~
28 of this act shall become inoperative.